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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR       | ATTORNEY DOCKET NO.     | CONFIRMATION NO.       |
|---|-------------|----------------------------|-------------------------|------------------------|
| 10/609,183  | 06/26/2003  | Christopher Forrest Harvey | 085804-012201           | 7640                   |
| 32361 7590 06/25/2007<br>GREENBERG TRAURIG, LLP<br>MET LIFE BUILDING<br>200 PARK AVENUE<br>NEW YORK, NY 10166 |             |                            | EXAMINER<br>ALAM, UZMA  |                        |
|   |             |                            | ART UNIT<br>2157        | PAPER NUMBER           |
|   |             |                            | MAIL DATE<br>06/25/2007 | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/609,183 | <b>Applicant(s)</b><br>HARVEY ET AL. |  |
|                              | <b>Examiner</b><br>Uzma Alam         | <b>Art Unit</b><br>2157              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 17, 18 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 19-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                        |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/31/07</u> . | 6) <input type="checkbox"/> Other: _____   |

### **DETAILED ACTION**

This action is responsive to the arguments filed on February 13, 2007. Claims 1-28 are pending. Claims 17, 18 and 28 are withdrawn from consideration because of a restriction requirement. Claims 1-16, 19-27 represent a method for facilitating communication between peer users.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-16 and 19-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al. US Patent No. 6, 677, 976 (herein referred to as "Parker") in view of Lowthert US Patent No. 5,832,300. Parker teaches the invention as claimed including establishing a communication session between separate users (see abstract). Lowthert teaches the invention as claimed including sending images to clients (see abstract).

As per claim 1, Parker teaches a method for facilitating communication of an instant message and an image to a first user from a second user, the method comprising:

associating the first user with a first user ID (identifying a user by a user ID; column 4, lines 28-67; column 5, lines 1-10, column 5, lines 53-65; column 7, lines 56-67);

Art Unit: 2157

associating the instant message with the first user ID (sending the instant message to the correct user based on the user ID; column 4, lines 59-67; column 5, lines 1-10; column 5, lines 53-65);

associating the image with the first user ID (column 4, lines 59-67; column 5, lines 11-15; column 5, lines 53-65; column 7, lines 56-67);

causing the instant message to be communicated to the first user based on the first user ID (sending the instant message to the first user based on the user ID; column 4, lines 59-67; column 6, lines 13-30; column 7, lines 24-35); and

causing the image to be communicated to the first user based on the first user ID (linking the image with the user based on the user ID; column 4, lines 59-67; column 6, lines 13-30; column 7, lines 56-67);

wherein the first user is able to receive both the instant message and image from the second user, the image being communicated at a frame rate (second user sending IM and images to the first user; column 4, lines 59-67; column 6, lines 13-30; column 6, lines 3-30; column 6, lines 55-67, image communicated at a frame rate, column 5, lines 10-15).

Parker does not teach at least one of said frame rate and said image quality being based upon conditions of a communication path between said first user and said second user. Lowthert teaches at least one of said frame rate and said image quality being based upon conditions of a communication path between said first user and said second user. See column 4, lines 20-31. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the video conference of Parker with the image quality and frame rate of Lowthert. A person of ordinary skill in the art would have been motivated to do this to enhance

Art Unit: 2157

communication based on certain exchange parameters (column 5, lines 1-5). Also, Parker suggests that the video telephony system is described in more detail in the copending applications (see column 4, lines 59-62).

As per claims 9 and 19, Parker teaches a method for communicating images from a broadcaster computer to a first viewer computer, the method comprising and a method for passing by one or more application servers images from a broadcaster computer to a first viewer computer, the method comprising:

initiating one or more server connections between the broadcaster computer and the first viewer computer via one or more application servers, the connections for passing an image and an instant message (going through a central server and requesting a session; column 5, lines 1-15; column 5, lines 53-65; column 6, lines 3-30; column 6, lines 55-67);

receiving an indication to establish a peer-to-peer connection between the broadcaster computer and the first viewer computer, the peer-to-peer connection for passing the image (the central server allows the user to have direct communication; column 5, lines 1-55; column 5, lines 53-65; column 6, lines 3-30; column 7, lines 1-15); and

routing the image over the peer-to-peer connection instead of the server connections, thereby conserving bandwidth of the servers (sending all data across the direct connection; column 5, lines 1-15; column 5, lines 53-65; column 6, lines 3-30).

Parker does not teach at least one of said frame rate and said image quality being based upon conditions of a communication path between said first user and said second user. Lowthert teaches at least one of said frame rate and said image quality being based upon conditions of a

Art Unit: 2157

communication path between said first user and said second user. See column 4, lines 20-31. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the video conference of Parker with the image quality and frame rate of Lowthert. A person of ordinary skill in the art would have been motivated to do this to enhance communication based on certain exchange parameters (column 5, lines 1-5). Also, Parker suggests that the video telephony system is described in more detail in the copending applications (see column 4, lines 59-62).

As per claim 2, Parker teaches the method of claim 1, wherein the second user uses a broadcaster computer and the first user uses first viewer computer, the method further comprising:

receiving a request to initiate one or more server connections between the broadcaster computer and the first viewer computer, the connections for passing the image (going through a central server and requesting a session; column 5, lines 1-15; column 5, lines 53-65; column 6, lines 3-30; column 6, lines 55-67);

facilitating a peer-to-peer connection between the broadcaster computer and the first viewer computer, the peer-to-peer connection for passing the image (the central server allows the user to have direct communication; column 5, lines 1-55; column 5, lines 53-65; column 6, lines 3-30; column 7, lines 1-15); and

facilitating communication of the image over the peer-to-peer connection instead of the server connections, thereby conserving bandwidth of the servers (sending all data across the

Art Unit: 2157

direct connection; column 5, lines 1-15; column 5, lines 53-65; column 6, lines 3-30).

As per claim 3, Parker teaches the method of claim 2, further comprising: receiving control data for the image from the broadcaster computer (column 7, lines 24-35).

As per claims 4, 12 and 22 Parker teaches the method of claims 2, 11, and 19, wherein a third user uses a second viewer computer, further comprising, after passing the image from the broadcaster computer to the first viewer computer:

passing a request to view the image from a second viewer computer to the broadcaster computer (sending a request to a central computer to a user; column 6, lines 30-54; column 7, line 1-15; column 8, lines 31-67); and

facilitating the reestablishing of a first server connection between the broadcaster computer and the first server computer for passing the image in response to receiving the second viewer computer request (column 6, lines 30-54; column 7, line 1-15; column 8, lines 31-67); and

facilitating a second server connection between the broadcaster computer and the second viewer computer for passing the image, thereby permitting both the first viewer computer and the second viewer computer to receive the image (column 6, lines 30-54; column 7, line 1-15; column 8, lines 31-67).

As per claims 5, 13, and 23, Parker teaches the method of claims 4, 12 and 22, wherein the reestablishing is in response to the broadcaster computer receiving approval from the

second user (column 6, lines 13-30; column 8, lines 1-15, lines 23-36).

As per claims 6, 14 and 24 Parker teaches the method of claims 5, 12 and 22, wherein the third user is on an approved list (column 6, lines 13-30; column 8, lines 1-15, lines 23-36).

As per claims 7, 15 and 25 Parker teaches the method of claims 4, 11 and 22, further comprising: maintaining the peer-to-peer connection during existence of the server connection to the second viewer computer; terminating the second server connection; and facilitating the passing of the image over the peer-to-peer connection in response to termination of the second server connection (maintaining a direct connection between two users; column 6, lines 55-67; column 7, lines 1-15; column 8, lines 37-52).

As per claims 8 and 26, Parker teaches the method of claims 1 and 25, further comprising: associating a second user ID with the second user; wherein causing the instant message to be communicated to the first user is further based on the second user ID (column 6, lines 30-54; column 8, lines 1-15, 23-36).

As per claim 10, Parker teaches the method of claim 9, wherein the server connections with the application servers are for passing control data for the image (sending packet header information; column 6, lines 31-54).



Art Unit: 2157

As per claims 11 and 16, Parker teaches the method of claims 10 and 15, wherein the server connections are further for passing an instant message (column 8, lines 1-15).

As per claim 20, Parker teaches the method of claim 19, further comprising: receiving control data for the image from the broadcaster computer (sending packet header information; column 8, lines 37-52)

As per claim 21, Parker teaches the method of claim 20, further comprising: passing an instant message from the broadcaster computer to the first viewer computer (column 8, lines 37-50).

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 27 is rejected under 35 U.S.C. 102(b) as being anticipated by Fukasawa et al. US Patent No. 6,377,989. Fukasawa teaches the invention as claimed including a method for transferring images.

Fukasawa teaches a method for communicating a series of images from a broadcaster computer to a first viewer computer via one or more application servers, the method comprising:

Art Unit: 2157

passing a first image of the series of images from the broadcaster computer to the first viewer computer(the image server sending image to image client; column 9, lines 11-14; column 1, lines 18-35); and

detecting whether an indication from the first viewer computer as to whether the first image has been received (transmit Ack message...to image server; column 6, lines 58-64; column 9, lines 15-20); and

passing a second image of the series of images if the first image has been received (column 9, lines 21-30).

#### ***Response to Arguments***

4. Applicant's arguments filed February 13, 2007 with respect to claims 1-16, 19-27 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

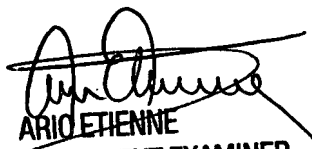
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uzma Alam whose telephone number is (571) 272-3995. The examiner can normally be reached on Monday-Tuesday 5:30 AM - 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2157

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Uzma Alam  
Ua  
June 11, 2007

  
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